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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/839,419	04/23/2001	Werner Blumenstock	Q63542	3448

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EXAMINER

NGUYEN, DUC M

ART UNIT PAPER NUMBER

2685

DATE MAILED: 09/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/839,419

Applicant(s)

BLUMENSTOCK ET AL.

Examiner

Duc M. Nguyen

Art Unit

2685

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 7/7/04 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-16.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Art Unit: 2685

Continuation sheet

Note : Claims 1, 9, 13, 15, 16 as amended raise new issues that would require further consideration and/or search.

In addition, except for claim 15, the “automatically” feature as amended in claims 1, 9, 13, and 16 still does not interpret nor imply the limitation of automatic execution of the diagnostic program upon receiving the first e-mail message. Here, even though the diagnostic program is manually executed by the user as argued by the Applicant, it is clear that upon the execution of the inspection program by the user, the computer (automation system) in Kuwabara’s reference would **inherently** include an instruction decoder and would automatically **identifies** the instructions of the inspection program and would automatically transmits the instruction in order to carry out the inspection process.

As to claim 16, with the broadest reasonable interpretation, the diagnostic program would perform at least one of the control, operate and monitor the application of the automation system as claimed. Further, the only difference in claim 16 that Applicant pointed out in the argument filed on 1/20/04 is the bi-directional communication between the remote user and the application. However, the method described in Kuwabara is also a bi-directional communication between the remote user and the application, even though it is performed via a user.

For foregoing reasons, the examiner believes that the pending claims are not allowable over the cited prior art.

Conclusion

1. Any response to this action should be mailed to:

Box A.F.

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 872-9314 (for formal communications intended for entry)

(for informal or draft communications, please label "PROPOSED" or "DRAFT").

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington VA, Sixth Floor (Receptionist).

Any inquiry concerning this communication or communications from the examiner should be directed to Duc M. Nguyen whose telephone number is (703) 306-4531, Monday-Thursday (9:00 AM - 5:00 PM). Or to Edward Urban (Supervisor) whose telephone number is (703) 305-4385.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-4700.

Duc M. Nguyen
Sept 7, 2004

